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Moldova

MEMORANDUM

AMNESTY INTERNATIONAL'S CONCERNS RELATING TO POLICING DURING AND AFTER THE EVENTS OF 7 APRIL 2009 IN CHIȘINĂU

Hundreds of people, including minors, were detained in Moldova as the country's authorities clamped down following demonstrations which started in the capital on 6 April but which led to rioting on 7 April 2009.

According to the Moldovan Ministry of Internal Affairs, by 11 April, 129 people had been detained. Of these, 88 people had been sentenced to between 2–15 days administrative detention, 22 people had been fined and four people had been released. Fifteen people were still unaccounted for. A further 86 people have been detained on suspicion of committing criminal acts.

Amnesty International is concerned that people, mostly of student age, were detained indiscriminately and many were subjected to torture and other ill-treatment. Local NGOs have testimonies from over 100 detainees, their families or lawyers, claiming that they have been beaten or subjected to torture and other cruel, inhuman and degrading treatment.

Amnesty International has written to President Vladimir Voronin raising the following concerns.

EXCESSIVE USE OF FORCE BY POLICE AFTER THE DEMONSTRATIONS

Amnesty International has received many reports of excessive use of force by police following the demonstrations which began on 6 April. Amnesty International acknowledges that law enforcement officials have both a responsibility and an obligation under international law to ensure the safety and security of people and property. However, it is also the duty of the authorities to ensure that the policing of demonstrations is carried out in a manner that complies with international standards, such as the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on Use of Force and Firearms by Law Enforcement Officials. According to the UN Basic Principles on the Use of Force and Firearms, law

enforcement officials should only use force and firearms in carrying out their duties if other means would be ineffective. Governments should ensure that any arbitrary or abusive use of force by law enforcement officers is prosecuted as a criminal offence.

Amnesty International has interviewed the following people whose cases illustrate this concern:

Valentina Cuşnir, an independent member of parliament, was near the main street of Chişinău at about midnight on 7 April. She told Amnesty International that she witnessed police beating a group of young people who had attempted to overturn a kiosk. She reported to Amnesty International that she was verbally abused by a police officer. Two officers then twisted her arms behind her back, one grabbed her by the hair and the officers then dragged her for about 200m before pushing her to the ground and letting her go. She believes she lost consciousness. Medical records confirm that she suffered concussion, a fractured left wrist and bruising to her back; she has been hospitalised as a result of these injuries.

Oleg Brega, a civil society activist, reported to Amnesty International that he was beaten by police when he attempted to film the police beating people behind the Building of the Government at about midnight on 8 April. An Amnesty International representative accompanied him to the hospital where he was treated for his injuries.

Valeriu Boboc reportedly died during the demonstrations on 7 April. There are conflicting reports as to the cause of his death. The General Prosecutor's Office has reported that his death was due to poisoning with unknown substances, while his family allege that he died as a result of injuries inflicted by the police.

Amnesty International calls on the Moldovan authorities:

- to ensure that law enforcement officials are trained to use all force strictly in accordance with international standards;
- to ensure that all allegations of use of excessive force by the police during and after the events on 7 April are promptly, thoroughly and independently investigated;
- to ensure that police officers carrying out arrests identify themselves and to stop the practice of detentions being carried out by officers in plain clothes who fail to identify themselves.

WIDESPREAD TORTURE AND OTHER INHUMAN AND DEGRADING TREATMENT IN DETENTION

According to the Ministry of Internal Affairs, by 11 April as many as 200 people were in detention, either awaiting trial, or serving administrative sentences. By 13 April, Amnesty International had been contacted regarding 46 cases concerning people in police custody many of whom had reportedly been beaten or otherwise ill-treated. The UN Human Rights Advisor for Moldova has confirmed that he saw evidence of acts of cruel and unusual punishment when he visited the pre-trial detention centre (SIZO) No. 13 in Chişinău on 11 April.

The following cases illustrate our concerns:

A group of 36 people travelling in minibuses and a car were stopped by police in masks and machine guns at 12.30am on 7 April, and escorted to the Central Police Commissariat in Chişinău. They were reportedly made to stand in the courtyard against walls with their legs and arms apart for two hours or more, and one of them reported that he was beaten in the face with a rifle butt. When they were taken into the building they had their fingerprints taken and they were photographed and filmed. While being questioned, they each had someone standing behind them and after each question they were hit with a police baton and kicked. After questioning they were allegedly forced to run along a “corridor of death” of uniformed police, consisting of five or six on each side, while police beat, kicked and used batons against them. The group, which included seven women, was told to strip down to their underwear and forced to perform squats. They were detained overnight and given administrative sentences of between two and 10 days’ imprisonment.

Anatol Matasaru was detained on 8 April and only allowed access to his lawyer on 14 April. At the time of writing, he is still in detention and two people who had been in detention with him told his wife later that all those in detention at the same time were beaten, but that Anatol Matasaru was beaten much more than the others because he was known to the police from his previous peaceful protests. Anatol Matasaru was reportedly forced by the police officers beating him to lick their boots so that they would stop. He has been charged with a criminal offence.

Damian Hancu, a Moldovan studying in France, was at the demonstrations on 7 April interpreting for Swedish journalists when he was detained by police officers at 10pm on 7 April. He was reportedly severely beaten and kicked by police officers in custody to force him to confess to having taken part in the rioting and the destruction at the Parliamentary and Presidential buildings. He was released on 9 April and was charged with an administrative offence.

In our report on torture and ill-treatment in police custody we documented a number of factors leading to impunity for torture and other ill-treatment including low rates of conviction of police officers for torture and other ill-treatment, the difficulties that victims face in lodging complaints, as well as the failure of the Prosecutor General’s office to conduct prompt, thorough, independent and impartial investigations. We called on senior officials to deliver a clear message that torture or ill-treatment or threats to use such treatment are absolutely prohibited. The number of reports of ill-treatment that we are currently receiving appears to signal that there is a continuing atmosphere of impunity among police officers.

Amnesty International urges the Moldovan authorities:

- to take the lead to combat torture and other ill-treatment by delivering a clear message that such methods will not be tolerated;
- to ensure that all allegations of torture and ill-treatment are promptly, thoroughly and impartially investigated, and that anyone reasonably identified as responsible is brought to justice in fair proceedings;
- to ensure that anyone found to be a victim of such violations receives reparations, including fair and adequate compensation and full rehabilitation.

FAILURE TO PROVIDE NECESSARY SAFEGUARDS TO DETAINEES

International human rights bodies have identified the right to have access to a lawyer as one of the fundamental safeguards against ill-treatment, and that right should apply from the outset of custody. In most of the cases that have come to Amnesty International's attention since 7 April detainees have not been provided with prompt access to a lawyer of their choice.

The following examples illustrate our concerns:

Damian Hancu, asked to see a lawyer, and reported that he was beaten even more for having asked.

The group of 36 people who were detained on 7 April, were allocated lawyers, but denied access to lawyers of their choice. One of the appointed lawyers reportedly beat his client in order to force him to confess. Two of the lawyers asked for money and said they would not work unless they were paid in advance.

There have also been reports that detainees are brought before a judge, often in groups and directly in police stations, and without adequate information as to the place and time being publicized to enable family members and lawyers to be present. The court hearings often last no more than 10 - 15 minutes and people are not being informed of their right to appeal against these decisions.

Amnesty International urges the Moldovan authorities:

- to ensure that all detainees are informed of their rights and ensured prompt access to a lawyer of their choice;
- to ensure that in criminal cases the requirements of the Criminal Procedural Code that a lawyer always be present during police interrogations is complied with;
- to ensure that court hearings are public and that information about the dates and times of hearings are publicized;
- to ensure that those sentenced under the Code on Administrative Infractions do not serve their sentences in police detention facilities.

FAILURE TO DISTINGUISH BETWEEN THOSE WHO ARE SUSPECTED OF HAVING COMMITTED CRIMINAL ACTS AND THOSE WHO HAVE PEACEFULLY EXERCISED THEIR RIGHTS TO FREEDOM OF EXPRESSION AND ASSEMBLY

Amnesty International is concerned that in their haste to prosecute those who committed criminal acts during the rioting on 7 April, police and prosecutors may fail to distinguish between those who have been peacefully exercising their rights to freedom of expression and assembly and those who have committed violent acts. Amnesty International has previously documented cases where Ministry of Interior employees violated the right to freedom of expression by detaining people demonstrating peacefully within the law and failing to safeguard the right to freedom of expression from violation by third parties. The organization wrote to the Minister of the Interior on 11 February 2009 expressing concern at these violations.

Amnesty International is particularly concerned about the following individuals:

Natalia Morari and **Ghenadie Brega** have been accused of attempting to overthrow the state and could face a maximum prison sentence of 20 years. Both were amongst a group of civil society activists including Elena Zgardan, Artur Gurău, Ion Țărnă and others who organized a peaceful “day of mourning” on 6 April to protest against the results of the Moldovan parliamentary elections which took place the previous day. They had informed the authorities about their plans in accordance with the law. They had not expected that as many as 10,000 people would turn up at the peaceful demonstration. The organizers of the vigil asked everybody to leave at 8pm, but the political leaders present continued speaking to the crowd until 8.30pm and then announced that there would be another meeting at 10am the following morning. Amnesty International believes that the organizers were peacefully exercising their rights to freedom of expression and assembly, and that if arrested for organizing a peaceful assembly for which they had notified the authorities, they would be considered prisoners of conscience.

The meeting on 7 April, turned into violent rioting. Natalia Morari told Amnesty International that she was present on that day and was engaged in trying to locate loudspeakers in order to instruct the demonstrators to stay on the designated protest site.

Amnesty International urges the Moldovan authorities:

- to ensure that police officers understand and act according to the new Law on Assemblies and Moldova’s international human rights obligations;
- to ensure that a distinction is made between those suspected of having committed criminal acts and those who have peacefully exercised their rights to freedom of expression and assembly;
- to ensure that the rights to freedom of assembly, association and expression are upheld.

IMPEDING THE WORK OF THE PARLIAMENTARY HUMAN RIGHTS ADVOCATES (OMBUDSMEN)

Amnesty International welcomed the establishment of the Consultative Council for the Prevention of Torture within the Parliamentary Human Rights Advocates office. The Consultative Council was established in compliance with Moldova’s obligations as a state party to the Optional Protocol to the UN Convention against Torture. Regular visits to places of detention by an independent monitoring body of this kind, is one of the most effective ways to prevent torture and ill-treatment.

However, Amnesty International is concerned to learn that between 7 – 13 April, the Consultative Council was refused access to many police stations, including the General Police Commissariat of Chișinău and the Central, Buiucani and Rîșcani District Police Commissariats in Chișinău. It was only able to visit the pre-trial detention centre (SIZO) No 13 on 11 April after more than an hour of negotiations and with the intervention of the Ombudsman. Furthermore, on 14 and 15 April, the Consultative Council was given very restricted access to Ciocana District Police Commissariat and access to Rîșcani District Police Commissariat only when the Ombudsman arrived.

Amnesty International is further concerned by reports that the Parliamentary Human Rights Advocates have been strongly advised by the authorities not to speak out about human rights violations or assist with visits to detention centres.

Amnesty International urges the Moldovan authorities:

- to ensure that police officers at all levels are properly informed of the legal functions and duties of the Parliamentary Human Rights Advocates, including the rights to enter without any restriction, and without prior authorization, any state institution, including police stations and prisons, and to speak in confidence with any person there, without the presence of officials as set out in the Law on Parliamentary Advocates. These rights extend to the Consultative Council against Torture.